

A medicine or drug is "any pill, powder, potion, salve, or other preparation intended by the manufacturer for human use and which purports on the label to have medicinal qualities." See 86 Ill. Adm. Code 130.310. (This is a GIL.)

July 9, 2003

Dear Xxxxx:

This letter is in response to your letter dated January 31, 2003. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at www.revenue.state.il.us/Laws/regs/part1200/.

In your letter, you have stated and made inquiry as follows:

On January 11, 2003, I purchased Tylenol at the Store. I was charged \$1.05 tax on a \$13.96 item. I have enclosed a copy of the sales receipt.

I returned to the store later that day and went to the customer service desk, showed them my receipt and told them that I thought I had been overcharged on the tax for a drug item. The lady checked with someone else and I was told that the tax of 7.5% was correct. I questioned that this was a drug item and the Illinois tax on these items was 1%. A store manager was called over and he confirmed that the tax of 7.5% was correct.

Later the next week my husband called the Revenue Dept. and was told that Tylenol was a drug item and should be charged 1%. She told him to return to the store and ask again for a refund.

I returned to the store on January 30th at 11:20am, I talked to a gentleman at the customer service desk. I showed him my receipt, told him I believed I was overcharged the tax. He checked with someone at the desk that said the tax was 7.5%, I questioned again that this was a drug item and should be 1%. He telephoned someone he called Tina; she confirmed that Tylenol was 7.5% tax. I did not get a refund!

I shop at STORE on a regular bases, and have purchased drug items in the past. This is the first time I have purchased an item by itself. I am now wondering how much tax I was charged for all of those other items.

I believe I am entitled to a refund, if I am wrong on this please let me know. Thank you for your time.

For your information, we have enclosed a copy of 86 Ill. Adm. Code 130.310, which is the Department's regulation for "Food, Drugs, Medicines and Medical Appliances." This regulation describes how sale of food and drugs can be subject to either low (1%) or high (6.25%) State tax rates under the Retailers' Occupation Tax Act. Local sales taxes may also apply, depending upon where retail sales are made.

A medicine or drug is "any pill, powder, potion, salve, or other preparation intended by the manufacturer for human use and which purports on the label to have medicinal qualities." (See Section 130.310(c)(1).)

Tylenol is a drug and the correct state tax rate is 1%. Please feel free to take this letter with you the next time you shop in order to clarify the tax rate with the retailer. We have referred the business listed in your letter to the appropriate division of the department. Illinois law requires that all overcollections of tax must either be turned over to the Department or refunded to the customer. See, 35 ILCS 120/2-40. Furthermore, when overcollection of sales tax in Illinois is determined to be intentional, each offense constitutes a Class 4 felony. See, 35 ILCS 120/13.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.